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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/614,503	07/07/2003	Lee Warren Atkinson	200302691-14	9261

7590 05/20/2004

HEWLETT-PACKARD COMPANY  
Intellectual Property Administration  
P.O. Box 272400  
Fort Collins, CO 80527-2400

EXAMINER

RAY, GOPAL C

ART UNIT	PAPER NUMBER
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2111

DATE MAILED: 05/20/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/614,503	ATKINSON, LEE WARREN	
	<b>Examiner</b>	<b>Art Unit</b>	
	Gopal C. Ray	2111	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 07 July 2003.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 21-39 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 21-30 is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_\_ is/are rejected.
- 7) ☒ Claim(s) 31-39 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 07 July 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>07072003</u> . | 6) <input type="checkbox"/> Other: _____  |

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1. The examiner acknowledges the cancellation of claims 1-20 and addition of new claims 21-39 by the amendment filed on 10/30/03. Claims 21-39 are presented for examination.
2. The specification has not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.
3. Claims 31-39 are objected to because of the following informalities: the word —and— should be inserted after “;” in claim 31, line 5; claim 34, line 5 and claim 36, line 7. Dependent claims 32, 33, 35 and 37-39 incorporate the deficiencies of the respective parent claims.

Furthermore, all claims should be revised carefully to eliminate all grammatical errors and antecedent basis problems.

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 21-23 and 25-27 are rejected under 35 U.S.C. 102(b) as being anticipated by US Patent 5,218,704 issued to Watts, Jr. et al.

As per claim 21, the reference of Watts, Jr. et al. teaches “monitoring a time related level of processing activity by a processing unit including a processor” in col. 3, lines 38-43 and 66-68 and “increasing or decreasing the performance level of the processor according to the monitored level of processing activity” in Fig. 3 and col. 11, lines 1-33.

As per claim 22, the reference of Watts, Jr. et al. teaches "wherein the processor activity is determined by monitoring input/output operations associated with the processor" in col. 12, lines 17-20.

As per claim 23, the reference of Watts, Jr. et al. teaches "wherein the input/output operations comprise write cycles" in col. 12, lines 7-9.

As per claim 25, the reference of Watts, Jr. et al. teaches "monitoring a time related level of processing activity by a processing unit" in col. 3, lines 38-43 and 66-68 and "increasing or decreasing processor performance level of the processing unit according to the monitored level of processing activity" in Fig. 3 and col. 11, lines 1-33.

As per claims 26 and 27, the added limitations of the claims are rejected for the same reasons as discussed in the rejection of claims 22 and 23 respectively.

6. The following is a quotation of 35 U.S.C. § 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 24 and 28-30 are rejected under 35 U.S.C. § 103(a) as being unpatentable over US Patent 5,218,704 issued to Watts, Jr. et al. in view of US Patent 4,670,837 issued to Sheets.

As per claim 24, the claim is rejected for the same reasons as discussed in the rejection of claim 21 with the exception of "wherein the processor activity is determined by monitoring access by the processor to memory coupled to the processor". However,

the above feature was well known to one of ordinary skill in the art at the time the invention was made as evidenced by sheets. The reference of Sheets teaches the feature in col. 2, lines 7-29 and col. 3, lines 1-4. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to implement the above feature of Sheets in the system of Watts, Jr. et al. to obtain the claimed invention because processor activity may include memory accesses and by increasing or decreasing the performance level of processing activity would save power consumed by the processor. The reference of sheets teaches the motivation in col. 3, lines 1-4.

As per claim 28, the claim recites a combination of the limitations shown in claims 21 and 24 and are rejected for similar reasons discussed above in the rejection of claims 21 and 24.

As per claims 29 and 30, the added limitations of the claims are rejected for the same reasons as discussed in the rejection of claims 22 and 23 respectively.

8. Claims 31-39 are objected but would be allowable if amended to overcome the objection set forth above in paragraph 3 of the Office action. The claims are allowable over the prior art on record because of the following reasons: The examiner has done a thorough search and found no prior art that teaches or fairly suggests, inter alia, the limitations such as "circuitry operable to increase or to decrease processor performance level in response to the monitored level of processor activity changing from a threshold" as claimed in independent claims 31, 34 and 36. Dependent claims 32, 33, 35 and 37-39 further limit the subject matter of the respective parent claims. If applicant is aware

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of any better prior art than those are cited they are required to bring the prior art the attention of the examiner.

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Applicant is urged to consider the references. However, the references should be evaluated by what they suggest to one versed in the art, rather than by their specific disclosure. The prior art submitted by applicant has been considered by the examiner and made of record in the file.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gopal C. Ray whose telephone number is (703) 305-9647. The examiner can normally be reached on Monday - Friday from 8:00 AM - 4:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mark Rinehart, can be reached on (703) 305-4815. The new fax phone number for this Group is (703) 872-9306.

Communications via Internet e-mail regarding this application, other than those under 35 U.S.C. 132 or which otherwise require a signature, may be used by the applicant and should be addressed to [[mark.rinehart@uspto.gov](mailto:mark.rinehart@uspto.gov)].

All Internet e-mail communications will be made of record in the application file. PTO employees do not engage in Internet communications where there exists a possibility that sensitive information could be identified or exchanged unless the record includes a properly signed express waiver of the confidentiality requirements of 35 U.S.C. 122. This is more clearly set forth in the Interim Internet Usage Policy published

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in the Official Gazette of the Patent and Trademark on February 25, 1997 at 1195 OG

89.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to TC2100 receptionist whose telephone number is (703) 305-3900.

*Gopal C. Ray*  
GOPAL C. RAY  
PRIMARY EXAMINER  
GROUP 2800